

## PUBLIC WORKS DEPARTMENT, HARYANA

## BUILDINGS AND ROADS BRANCH

The 28th June, 1971

**No. SE/B&R/CC/42.**—Whereas the Governor of Haryana is satisfied that land specified below is needed by Government, at the public expense, for a public purpose, namely, for constructing of Panchkula Morni road Section Nada Sahib to Morni R.D. 11400 to R.D. 26920, in Ambala District, it is hereby declared that the land described in the specification below is required for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Land Acquisition Collector, Haryana, Public Works Department, Buildings and Roads Branch, Ambala Cantt, or any other Special Collector authorised by the Colonization Officer-cum-Special Land Acquisition Collector, Haryana is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Haryana, Public Works Department, Buildings and Roads Branch, Ambala Cantt, and the Executive Engineer, Division Public Works Department, Building and Roads Branch, construction Division No. 2, Chandigarh.

In view of the urgency of the acquisition the Governor of Haryana, in exercise of the powers under Section, 17 (I) of the said Act, is further pleased to direct that the Land Acquisition Collector, Haryana, Public Works Department, Buildings and Roads Branch, Ambala Cantt, shall proceed to take possession of any waste or arable land out of the herein specified in accordance therewith.

## SPECIFICATION

Name of District	Name of Tehsil	Name of Village	Area in acre	Khasra No.
Ambala	Naraingarh	Nadian	28.50	66, 67, 68, 69, 70, 71, 72, 73, 76, 77, 84, 85, 99, 102, 103, 104, 105, 107, 108, 109, 115, 118, 119, 120, 127, 128, 129, 130, 131, 132, 133, 133

K. L. KAPOOR,

Superintending Engineer,  
Constn. Circle, PWD, B&R Branch,  
Haryana, Chandigarh.

## LABOUR DEPARTMENT

The 26th-29th June, 1971

**No. 7011-4Lab-71 21036.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Kalkaji Compressor Works, Proprietor, K. G. Khosla and Co. (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 47 of 1970

Between

SHRI JODH PAL SINGH WORKMAN AND THE MANAGEMENT OF M/S KALKAJI COMPRESSOR WORKS, PROP. K. G. KHOSLA & CO. (P) LTD., FARIDABAD

Present :

Shri Roshan Lal Sharma for the workmen.

Dr. Anand Parkash and Shri K. N. Gulati for the management.

## AWARD

The material facts leading to the present reference under section 10(1)(d) of the Industrial Disputes Act, 1947, may briefly be stated as under :—

Shri Jodh Pal Singh concerned workman was in the service of M/s Kalkaji Compressor Works, Prop. K. G. Khosla & Co. (P) Ltd. Faridabad as a Fitter since June, 1962. He had proceeded on leave for two days, i.e. for 20th and 21st November, 1969,—vide his application Exhibit M.W. 2/1 which was duly sanctioned. He, however, did not report for duty after the expiry of the said leave and the management, therefore, removed his name from the rolls of the factory with effect from 4th December, 1969 in compliance with the provisions of rule 7(e) of the Certified Standing Orders of the factory,—vide order of the even date Exhibit M.W. 2/2. Shri Jodh Pal Singh allegedly reported for duty on 12th December, 1969 contending that he had been taken ill during the intervening period and he had submitted his application for extension of leave. The management did not take him back on duty nor did it accept the medical certificate produced by him. Feeling aggrieved, he raised the demand for his reinstatement,—vide demand notice, dated 26th December, 1969 whereupon conciliation proceedings were initiated but without any success. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana was pleased to refer the dispute for adjudication to this Tribunal,—vide order No. ID/FD/279F/7068-72, dated 10th March, 1970, with the following terms of reference.

Whether the termination of services of Shri Jodh Pal Singh was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties and they put in their respective written statements. In the claim statement filed on behalf of the workmen on 17th April, 1970, it was urged that the management had illegally terminated his services on 13th December, 1969 without any notice, warning or charge-sheet and obviously for considerations of victimisation and as such he was entitled to re-instatement with continuity of previous service and full back wages.

In the written statement filed on 15th April, 1970, the management took up the stand that there had been no termination of services of this workman who had in fact, lost his lien on his job under the Certified Standing Orders of the factory, and that being so, his case was not covered by section 2-A of the Industrial Disputes Act and this Tribunal had no jurisdiction in the matter, the reference itself being invalid. According to the management the workman had absented himself from duty from 22nd November, 1969 without any intimation or sanction of leave and he had, therefore, forfeited his lien on his appointment in terms of Certified Standing Orders of 7(c) and he had accordingly been informed,—vide letter, dated 4th December, 1969. It was, therefore, contended that the workman had no case whatever for any relief, whether by way of reinstatement or otherwise. It was further contended that the present dispute, if any, had not been espoused by the workers union of the establishment and, therefore, the reference was invalid and ultravires of the powers of the Government.

From the above pleadings of the parties, the following issues arose for determination in the case, in addition to the one as per the terms of reference stated above :—

- (1) whether the reference is invalid and ultravires of the powers of the Government because the present has not been espoused by the K. G. Khosla Workers Union ?
- (2) Whether the claimant absented himself from duty from 22nd November, 1969 to 4th December, 1969 and he lost his lien in accordance with the Certified Standing Orders provision 7(e) ?

The management has examined four witnesses in all, namely, Shri K. N. Gulati, Deputy Works Manager, M.W. 1, Shri Tek Chand Vermani Works Manager M.W. 2, Shri G. D. Kanshik, Assistant Engineer, M.W. 3, and Shri Gian Chand, Clerk, Time Office P.W. 4 who have unanimously deposed that Shri Jodh Pal Singh concerned workman had remained absent from duty from 22nd November to 4th December, 1969 without any intimation or sanction of leave and his name had, therefore, been removed from the rolls of the factory in accordance with rule 7(c) of the Certified Standing Orders. The suggestion put to Shri Tek Chand Vermani Works Manager, M.W. 2 that Shri Jodh Pal Singh had applied for extension of his leave on account of illness was categorically denied.

Shri Jodh Pal Singh concerned workman, on the other hand, has made his solitary statement without examining any other witness. According to him, he had proceeded on leave from 18th November, 1969 to 21st November, 1969 due to illness and his condition having further deteriorated he had obtained medical treatment from the private doctor at Shikarpur in U.P. It has further been stated that he had been beaten by a mad dog for which he had to undergo a regular course of 14 injections and that he had been applying for extension of his leave from time to time, supported with medical certificates, but the management had refused to grant him leave and even the medical certificate produced by him was not accepted. He has further stated that he had reported for duty on 13th December, 1969 but was not allowed to do so by the management and his services had been terminated without any warning or charge-sheet. He has placed reliance upon medical certificates Exhibit W.W. 1/1 to W.W. 1/5.

Arguments have been addressed on both sides and I have given due consideration to the facts on record. The main contention put forward on behalf of the management is that it is not a case of termination of the services of the concerned workman by the management as having absented himself from duty without leave beyond the prescribed period, he had forfeited his lien on his appointment in accordance with the provisions of section 7(e) of the Certified Standing Orders of the factory, and as such, he was not entitled to any relief by way of reinstatement or otherwise. The contention is forceful and fully warranted by the facts on record and therefore, it has to prevail. The learned representative of the workman has not been able to satisfy me to the contrary. The relevant provisions of rule 7(e) of the Certified Standing Orders of the factory may usefully be reproduced as under :-

7(e). "If a workman remains absent without leave or beyond the period of leave originally granted or subsequently extended, he shall be liable to lose his lien on the appointment he holds unless (i) he reports for duty within 10 days of the expiry of the leave and (ii) gives an explanation to the satisfaction of the Factory Manager of his inability to return to work on the expiry of leave granted or extended, as the case may be. Till such time the explanation of the worker has been accepted he will be treated on leave without pay. Such explanation shall be decided within a week of its receipt."

It is common ground between the parties that Shri Jodh Pal Singh concerned workman had been granted leave for 20th and 21st November, 1969,—*vide* his application Ex. M. W. 2/1. There is further no denying the facts that he had not reported for duty after the expiry of this leave till 4th December, 1969, as according to his own showing he had reported for duty only on 12th December, 1969. His case is that he had been taken seriously ill during the intervening period and he had applied for the extension of his leave of which, however, there is no satisfactory proof on record. The management has categorically denied the receipt of any application for extension of his leave. The burden was, therefore, upon the workman to establish conclusively that he had actually been taken ill and that he had satisfactorily explained to the management the above cause of his absence from duty. On a careful scrutiny of the evidence produced by him, however, I find that he has simply failed to discharge this burden.

In the first instance, the evidence of his alleged illness during the period in question is self-contradictory. According to the medical certificate Ex. W. W. 1/4 and W. W. 1/5 issued to him by a private Homeopath Doctor at Shikarpur, he had been suffering from Typhoid fever from 22nd November, 1969 to 12th December, 1969 on which date he was fully recovered and was fit to resume his duty. But in his statement made in the Court on 19th February, 1971, it has been disclosed that he had been bitten by a mad dog for which he had to undergo a regular course of fourteen injections at the Safdarjang Hospital, New Delhi after the Employees State Insurance Dispensary had referred his case to the said Hospital. No Certificate from the Safdarjang Hospital has been produced. The medical certificate Ex. W. W. 1/1 which is of the Employees State Insurance Dispensary and purports to justify his absence from duty up to 19th December, 1969 on medical grounds is of no help to him for the simple and obvious reason that according to his own showing he was fit to resume his duty on 12th December, 1969 as per medical certificate of the private Homeopath Doctor Shikarpur Ex. W. W. 1/5. The other certificates Ex. W. W. 1/2 and W. W. 1/3 relate to an earlier period before 12th November, 1969 and have, therefore, no relevancy for the determination of the matter in issue in the instant case. I have not been referred to any other medical certificate to prove the above contention of the workman and in view of my above discussions the certificates Ex. W. W. 1/1 to Ex. W. W. 1/5 are of no help to him. Moreover, these certificates have been produced at a very late stage i. e. on 19th February, 1971 when he made his statement in the court and his own stand on the point being self contradictory, no weight can be attached to these certificates.

Then, there is no evidence worth consideration that he had actually applied for the extension of his leave from 22nd November, 1969 onwards or that he had given due intimation to the management about his so called illness. The learned representative of the workman contends that an application for extension of the leave had been sent by him through his brother, who is also an employee of the same concern, and when the management had refused to accept that application he had posted the same under a postal certificate. My attention has been drawn to the postal certificate Ex. W-1. This contention even does not advance the case of the present workman. In the first instance, the person who is alleged to have brought the application from the village of the workman has not been examined as a witness in the case and no reasonable explanation has been afforded for not producing this important witness. He was not a stranger but the brother of the workman himself and therefore, there could be no difficulty in examining him to state this fact within his knowledge. The withholding of the witness rather raises a presumption against the workman that if produced he would not have supported his contention. The postal certificate Ex. W-1 which purports to have been issued by some post office at New Delhi on 1st December, 1969 does not explain anything. If the application for extension of the leave had really been presented to the management on 22nd November, 1969 but refused it would have been sent by post on 23rd December, 1969 and it has not been explained as to why it was kept by the brother of the workman for 8 or 9 days. At any rate, this piece of evidence in the absence of the statement on oath of the person concerned is of no significance whatever.

Moreover, the explanation for inability to return to work on the expiry of the leave granted should have been afforded to the Factory Manager within 10 days of the expiry of the leave i.e., by 1st December, 1969, as required by rule 7(c) of the Certified Standing Orders of the factory. But that was admittedly not done. As stated by the workman himself, the medical certificate had been submitted by him only on 13th December, 1969.

It, therefore, follows that having overstayed his leave without permission, this workman had forfeited his lien on his appointment and the management was justified in removing his name from the rolls of the factory in pursuance of rule 7(c) of the Certified Standing Orders by which he was governed. There was no question of the management having terminated his services which, in fact, stood automatically terminated on account of his unauthorised absence from duty. The above view finds support in 1967-(II) LLJ page 884, 1954—Labour Appeal cases page 240 cited by the learned representative of the management. No authority to the contrary has been cited on behalf of the workman. That disposes of issue No. 2 which is decided against the workman.

In view of my above observations and finding on issue No. 2, the other issues do not arise for consideration as having manifestly lost his lien on his appointment by his own conduct and there being no termination of his services by the management, the workman is not entitled to any relief in the present proceedings by way of reinstatement or otherwise. The award is accordingly made against him but with no order as to costs.

O. P. SHARMA,

Dated : 22nd June, 1971.

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

No. 642, dated 23rd June, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated : 22nd June, 1971.

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

JAGDISH CHANDRA, Jt. Secy.